

**UNITED STATES DISTRICT COURT
IN THE DISTRICT OF MINNESOTA**

Samuel Kowouto, on behalf of himself
and all others similarly situated,

Civil Action No. _____

Plaintiff,

v.

Jellum Law, P.A.,

**NOTICE OF REMOVAL
TO FEDERAL COURT**

Defendant.

TO: The Clerk of the United States District Court for the District of Minnesota; and Plaintiff, through her attorneys, Ryan Peterson, Peterson Legal PLLC, 6600 France Ave S, Suite 602, Edina, MN 55434, and Thomas Lyons, Jr., Consumer Justice Center, P.A., 367 Commerce Court, Vadnais heights, MN 55127

Defendant Jellum Law, P.A. (hereinafter “Jellum”), by and through its attorneys, Bassford Remele, PA, removes this action from Minnesota District Court, Fourth Judicial District, Hennepin County, to the United States District Court for the District of Minnesota pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

In support of this Notice of Removal, Jellum states as follows:

I. REMOVAL PROCEDURE FOR ACTION COMMENCED BY SERVICE BUT NOT FILED

1. The removed action, entitled *Samuel Kowouto v. Jellum Law, P.A.*, Minnesota Fourth Judicial District (Hennepin County) was commenced, but not filed, via service of a Summons and Complaint upon Jellum on September 21, 2022. A true and correct copy of the Summons and Complaint is attached hereto as **Exhibit A**.

2. **Exhibit A** constitutes all process, pleadings and orders in this action.

3. The Summons and Complaint were served upon Jellum, but not filed. Nevertheless, this action is removable. *See, e.g., Lyon Fin. Servs., Inc. v. Greater Calvary Bible Church*, No. 09-CV-3734, 2010 WL 1389611, at *2 (D. Minn. Mar. 31, 2010) (“[T]he Court is not aware of any reason why a Minnesota state action that has been commenced through service – but not yet filed – could not be removed.”); *see also Duchene v. Premier Bank Metro South*, 870 F. Supp. 273 (D. Minn. 1994) (holding that a defendant’s notice of removal was improper when filed more than 30 days after service of a summons and complaint that was not filed with the court).

4. A Notice of Filing of Removal, attached hereto as **Exhibit B**, and a copy of this Notice of Removal to Federal Court are being filed contemporaneously herewith in Minnesota District Court, Fourth Judicial District, Hennepin County, as required by 28 U.S.C. § 1446(d) and copies of the same are being contemporaneously served upon Plaintiff as verified by the attached proof of service.

II. THIS REMOVAL IS TIMELY

5. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days of the first date upon which Midland received notice of the pleadings setting forth the claim for relief upon which this removal is based.

III. THIS COURT HAS ORIGINAL SUBJECT-MATTER JURISDICTION

6. In the Complaint, Plaintiff pleads that he resides in Hennepin County in the State of Minnesota. [Pl. Compl. at ¶ 5.] Defendant is alleged to be a corporation transacting business in the State of Minnesota. [*Id.* at ¶ 3.]

7. Accordingly, this action may be removed to this Court from the Fourth Judicial District Court pursuant to 28 U.S.C. § 1441 because the District of Minnesota is the District embracing the place where the action was commenced.

8. In the Complaint, Plaintiff alleges claims under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* [See **Exhibit A.**] Therefore, this Court has original jurisdiction of this civil action pursuant to 28 U.S.C. § 1331 because the action constitutes a claim by Plaintiff for alleged violations of a federal statute.

9. In sum, this action is removable pursuant to 28 U.S.C. § 1441 because it is a civil action over which this Court has original jurisdiction (based on federal question jurisdiction under 28 U.S.C. § 1331) and because Jellum is removing this action to the District Court of the United States for the district and division embracing the place where the action is pending. Jellum therefore is entitled to remove this action to this Court under 28 U.S.C. § 1441, *et seq.*

WHEREFORE Jellum Law, P.A., removes this action from the Fourth Judicial District Court for the County of Hennepin, State of Minnesota, and requests any further relief, general or specific, at law or in equity, to which it may be justly entitled.

~SIGNATURE BLOCK FOLLOWS~

BASSFORD REMELE
A Professional Association

Dated: October 21, 2022

By s/ Patrick D. Newman
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